

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION**

**CRIMINAL NO. 2:08CR28**

**UNITED STATES OF AMERICA**

**VS.**

**RODNEY LAMAR SELF**  
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**MEMORANDUM AND  
ORDER**

**THIS MATTER** is before the Court on Defendant's motion for review of a pretrial detention order entered by the Magistrate Judge. For the reasons stated herein, Defendant's motion will be denied.

**I. PROCEDURAL HISTORY**

In August 2008, Defendant was charged with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). **Bill of Indictment, filed August 5, 2008.** He pled not guilty and the Government requested that he be detained pending trial. A detention hearing took place on August 15, 2008. At the hearing, with the Government's consent, the Magistrate Judge released Defendant on an unsecured bond, provided

he comply with necessary terms and conditions, including electronic monitoring. At the hearing, the Magistrate Judge noted Defendant's extensive criminal record and observed that he was only being released because of the Government's recommendation to that effect.

Soon after the detention hearing, the Magistrate Judge entered a written order temporarily staying Defendant's release. **Order, filed August 19, 2008.** A second detention hearing took place on September 9, 2008. At that hearing, the Magistrate Judge stated that he had reconsidered Defendant's criminal record, including his record of failing to appear for necessary court appearances. He further stated that he wished to hear further evidence before making a final decision as to Defendant's pretrial detention. At the same time, the Government also indicated that it was withdrawing its consent to Defendant's release. After hearing evidence and argument from both sides, the Magistrate Judge granted the Government's motion requesting pretrial detention. **Order of Detention Pending Trial, filed September 12, 2008.** Defendant then filed the instant motion, requesting reconsideration of the detention order. **Motion for Review of Order Detaining Defendant, filed September 18, 2008.**

## II. STANDARD OF REVIEW

Detention orders entered by a magistrate judge are to be reviewed *de novo* by the district court. ***United States v. Clark*, 865 F.2d 1433, 1436 (4<sup>th</sup> Cir.1989)** (“A defendant ordered detained by a magistrate may seek *de novo* review in the district court.”). Title 18, United States Code, § 3145(b), which Defendant cites as the basis for his motion, states: “If a person is ordered detained by a magistrate judge . . . the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.”

## III. ANALYSIS

The Magistrate Judge’s detention order states that Defendant was detained pending trial pursuant to 18 U.S.C. § 3142(f). **Detention Order, *supra*, at 4.** That statute provides, in pertinent part:

The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) of this section *will reasonably assure the appearance of such person as required, and the safety of any other person and the community . . . [u]pon . . . the judicial officer’s own motion, in a case that involves . . . a serious risk that such person will flee.*

**18 U.S.C. § 3142(f)(2)(A) (emphasis added).** Upon reviewing Defendant's criminal record, the undersigned agrees with the Magistrate Judge that no conditions of pretrial release will reasonably assure Defendant's subsequent appearance in this Court. Recently, Defendant failed to appear in court in Cherokee County, North Carolina, to answer a number of felony and misdemeanor charges, including possession of a firearm by a felon, possession of a stolen firearm, possession of stolen goods, and possession of drug paraphernalia. **Detention Order, *supra*, at 3.** Further, as the Magistrate Judge noted, Defendant's residence is in Georgia, yet Defendant has repeatedly been accused of crimes in North Carolina, which suggests a pattern of traveling here to commit the crimes and then departing in an attempt to escape the consequences. ***Id.* at 4.** These circumstances combine to suggest that there is a serious risk that Defendant will flee the jurisdiction of this Court.

Moreover, Defendant's criminal history includes numerous crimes of violence, including eight counts of felony armed robbery, numerous firearm convictions, and two convictions for reckless driving. Based on these considerations – coupled with the fact that, in the instant proceedings, Defendant is charged with yet another firearm offense – the safety of

others and the community appears likely to be threatened if Defendant is released.

Thus, the undersigned believes that there is no combination of conditions for release that will assure either Defendant's future appearance in this Court or the safety of others and the community. The Court, therefore, concludes that Defendant's motion for reconsideration of the Magistrate Judge's pretrial detention order is without merit.

#### **IV. ORDER**

**IT IS, THEREFORE, ORDERED** that Defendant's motion for review is **ALLOWED**.

**IT IS FURTHER ORDERED** that, having conducted a review of the proceedings herein, the Magistrate Judge's detention order is hereby **AFFIRMED**.

Signed: September 19, 2008



Lacy H. Thornburg  
United States District Judge

